

House Bill 1340

By: Representatives Crawford of the 127<sup>th</sup>, Ralston of the 7<sup>th</sup>, Willard of the 49<sup>th</sup>, and Fleming of the 117<sup>th</sup>

A BILL TO BE ENTITLED  
AN ACT

To amend Titles 15 and 17 of the Official Code of Georgia Annotated, relating to courts and criminal procedure, respectively, so as to provide for an indigent defense coordinator, who shall be responsible for reviewing applications for legal defense services; to provide for collection of application fees; to include within the determination of indigency that it shall relate to the federal poverty level; to change certain provisions relating to guidelines for determining indigency; to provide for related matters; to provide for an effective date and applicability; to repeal conflicting laws; and for other purposes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

**SECTION 1.**

Title 15 of the Official Code of Georgia Annotated, relating to courts, is amended by striking subsections (b), (c), and (e) of Code Section 15-21A-6, relating to application fee for free legal services and remittance of such funds, and inserting in lieu thereof the following:

"(b) Any person who applies for or receives legal defense services under Chapter 12 of Title 17 shall pay the entity providing the services a single fee of \$50.00 for the application for, receipt of, or application for and receipt of such services. Such fee shall be paid to the person or entity as designated by the chief judge of the judicial circuit and shall be in accordance with the standards of the Georgia Public Defender Standards Council. The application fee may not be imposed if the payment of the fee is waived by the court. The court shall waive the fee if it finds that the applicant is unable to pay the fee or that hardship will result if the fee is charged.

(c) Each clerk of court, each indigent defense program, any indigent defense coordinator, or any other officer or agent of any court receiving any funds subject to this Code section shall collect the additional fees provided in this Code section and shall pay such moneys over to the authority by the last day of the month after the month of collection, to be deposited by the authority into the general fund of the state treasury."

1 "(e) A public entity other than an entity providing legal defense services under Chapter 12  
2 of Title 17 may charge, in addition to any other fee or surcharge authorized by law, a  
3 \$50.00 application fee unless waived by the court for inability to pay or hardship. Any  
4 such fee shall be retained by the entity providing the services or used as otherwise provided  
5 by law and shall not be subject to payment to the authority or deposit into the state treasury.  
6 Such fee shall be paid to the person or entity as designated by the chief judge of the court  
7 for which such services are being provided."

## 8 SECTION 2.

9 Title 17 of the Official Code of Georgia Annotated, relating to criminal procedure, is  
10 amended by striking Code Section 17-12-2, relating to definitions, and inserting in lieu  
11 thereof the following:

12 "17-12-2.

13 As used in this chapter, the term:

14 (1) 'Assistant public defender' means an attorney who is employed by any circuit public  
15 defender or conflict defender office.

16 (2) 'Circuit public defender' means the head of a public defender office providing  
17 indigent defense representation within any given judicial circuit of this state.

18 (3) 'Circuit public defender office' means the office of any of the several circuit public  
19 defenders.

20 (4) 'Council' means the Georgia Public Defender Standards Council.

21 (5) 'Indigent person' or 'indigent defendant' means a person who meets the indigency  
22 standard established by the council and whose maximum allowable income level does not  
23 exceed 150 percent of the federal poverty level or, in the case of a juvenile, whose  
24 household income does not exceed 150 percent of the federal poverty level.

25 (6) 'Public defender' means an attorney who is employed in a circuit public defender  
26 office or conflict defender office or who represents an indigent person pursuant to this  
27 chapter."

## 28 SECTION 3.

29 Said title is further amended by striking subsection (a) of Code Section 17-12-24, relating  
30 to guidelines for determining indigency, and inserting in lieu thereof the following:

31 "(a) The council shall establish ~~guidelines~~ standards for determining the financial  
32 eligibility of persons claiming indigence, ~~and the circuit public defender. The indigent~~  
33 defense coordinator appointed pursuant to Code Section 17-12-140 and any other person  
34 or entity providing indigent defense services shall use the ~~guidelines~~ standards in

1 conjunction with the definition of an indigent person to determine the financial eligibility  
2 of any person or juvenile arrested, detained, or charged in any manner that would entitle  
3 him or her to representation under this article."

#### 4 **SECTION 4.**

5 Such title is further amended by adding a new Article 7 to the end of Chapter 12, relating to  
6 legal defense for indigents, to read as follows:

7 "17-12-140.

8 (a) The chief judge of each judicial circuit in consultation with the circuit public defender  
9 shall appoint a person for each county in the judicial circuit to serve as the indigent defense  
10 coordinator for the purpose of reviewing applications from persons desiring indigent  
11 defense services pursuant to this chapter. The chief judge of each judicial circuit may also  
12 require the indigent defense coordinator to collect the \$50.00 application fee required  
13 pursuant to subsection (b) or (c) of Code Section 15-21A-6.

14 (b) The chief judge of each judicial circuit shall define the duties of the indigent defense  
15 coordinator and shall determine if such position shall be a full-time or part-time position.  
16 The indigent defense coordinator shall work with the circuit public defender to provide  
17 financial information to the circuit public defender regarding any application for legal  
18 defense services and the payment of the application fee, if applicable.

19 (c) The indigent defense coordinator shall serve at the pleasure of the chief judge of each  
20 judicial circuit, shall be compensated by the counties or counties comprising the judicial  
21 circuit, and shall be paid out of the county treasury, the manner and amount of  
22 compensation to be paid to be fixed by the chief judge of each judicial circuit with the  
23 approval of the county or counties comprising the judicial circuit."

#### 24 **SECTION 5.**

25 This Act shall become effective on July 1, 2006, and shall apply to all persons seeking  
26 services pursuant to Chapter 12 of Title 17 of the Official Code of Georgia Annotated after  
27 such date.

#### 28 **SECTION 6.**

29 All laws and parts of laws in conflict with this Act are repealed.